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FCC Mail Room

July 14, 2016

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, DC 20554

EX PARTE OR LATE FILED

**RE: Notice of Ex Parte Presentation, *In the Matter of Expanding Consumers' Navigation Choices, MB Docket No. 16-42; Commercial Availability of Navigation Devices, CS Docket No. 97-80***

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Dear Ms. Dortch,

I submit this letter subsequent to a conference call with Gigi Sohn, Jonathan Mayer and Eric Feigenbaum. I have been involved with the streaming video on demand business since 1996 when I founded the first SVOD service Intertainer. For the last six years I have been the Director of the Annenberg Innovation Lab at the University of Southern California. I am now retired and am writing on my own account.

While I fully support the FCC's desire to create a more vibrant and competitive ecosystem for accessing TV programs, I am deeply worried the effect this proceeding might have on the market for local television advertising, which supports much of the local news and public affairs programming on local TV broadcasting stations. I am aware that the cable industry has not innovated at the Set Top Box level for many years and that users need a more intuitive way to find TV programs, especially in an era when much of the content is being accessed OTT, in an on demand fashion.

My main concern is that firms like Google will offer subsidized set top boxes in order to

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sell local interactive advertising on the home screen of their STB, such as in this example.



Google could essentially offer the local restaurant, auto dealer or other advertiser a targeted interactive ad, that would be far more efficient than advertising on the local TV station. The effect of this would be to totally kill the local TV spot advertising market which funds most of the local broadcasting programming. We have seen what these kinds of competitive services have done to the local newspaper business, with U.S. newspaper ad revenues falling from \$66 billion to \$17 billion since Google entered the market.

I don't think the FCC wants to totally decimate local broadcasters in the same fashion that local newspapers have been destroyed. If my local channel can no longer afford local news broadcasting, Google will not be there to replace it. As the Analyst Scott Cleland has written, "At its simplest, what the FCC AllVid proposal does is force the regulated pay TV industry to create a Google-most-friendly IP search interface/portal into their proprietary pay TV offerings. That way Google would be enabled to index and then

monetize their competitors' most valuable proprietary information for free, by adding Google Internet ads as an overlay to competitors' ad-supported content, and by skipping the ads of their competitors, to kneecap their competition's relatively much smaller advertising businesses, and to devalue their competitors' paid content assets made vulnerable by the FCC proposal."

So perhaps some provision that providers of these new types of Set Top Boxes not be allowed to sell advertising might be a way to mitigate this risk. Google has none of the privacy restrictions that the FCC has imposed on the cable, telecom and satellite businesses and so it would have one more massive data set to sell advertising against. Apple seems happy to sell an Apple TV box that does not vacuum up all your TV watching data to resell to advertisers. If Google and Amazon really want to be in the set top box market, let them compete on a level playing field without advertising.

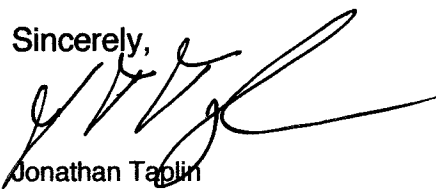
I believe the FCC has the jurisdiction to regulate Google's conduct in this matter. Google is a wireline broadband provider in offering Google Fiber and a wireless broadband provider in offering Project FI wireless broadband service.

The FCC's 706 authority to regulate in USTelecom v. FCC decision provides the FCC with the authority to regulate telecom and info services to protect the open internet and the virtuous circle of innovation. The FCC has latitude under 706 to regulate edge providers privacy controls to the extent it is tied to broadband deployment and the virtuous circle.

[https://www.cadc.uscourts.gov/internet/opinions.nsf/3F95E49183E6F8AF85257FD200505A3A/\\$file/15-1063-1619173.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/3F95E49183E6F8AF85257FD200505A3A/$file/15-1063-1619173.pdf)

This letter is being filed by ECFS with a copy to Gigi Sohn.

Sincerely,



Jonathan Taplin